

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FRANCIS HENRY RUGGIERO,
Plaintiff,

v.

COUNTY OF ORANGE; ORANGE COUNTY
CORRECTIONAL FACILITY; ORANGE
COUNTY SHERIFF’S OFFICE; CARL E.
DUBOIS AS ORANGE COUNTY SHERIFF;
CORRECTIONAL OFFICER J. CAPPELLI
(Shield number 362), CORRECTIONAL
OFFICER B. SOTELO (Shield number 345),
CORRECTIONAL OFFICER D. CAPPELLI
(Shield number 522), SGT. K. LYONS (Shield
number 107), and CORRECTIONAL
OFFICER WARREN (Shield number 361),
individually and in their official capacities as
Orange County Correctional Officers;
WELLPATH A/K/A NEW YORK CORRECT
CARE SOLUTIONS MEDICAL SERVICES,
P.C.; and JANE DOE, THE NAME BEING
FICTITIOUS, THE PERSONS INTENDED
BEING THE HEAD NURSE ON DUTY ON
AUGUST 8, 2019 and AUGUST 9, 2019,
Defendants.

ORDER

20 CV 7693 (VB)

-----X
On September 25, 2020, defendants County of Orange, Orange County Correctional Facility, Orange County Sheriff’s Office, Carl E. DuBois as Orange County Sheriff, Correctional Officer J. Cappelli, Correctional Officer B. Sotelo, Correctional Officer D. Cappelli, Sgt. K. Lyons, and Correctional Officer Warren (the “County Defendants”) moved to partially dismiss the complaint. (Doc. #14).

Accordingly, it is hereby ORDERED that, by no later than October 5, 2020, plaintiff must notify the Court by letter whether (i) he intends to file an amended complaint in response to the partial motion to dismiss, or (ii) he will rely on the complaint that is the subject of the motion to dismiss.

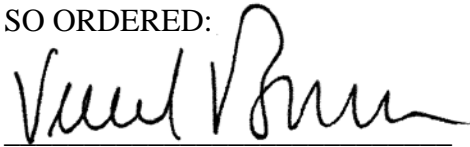
If plaintiff elects not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiff a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in County Defendants’ motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility”). The time to file opposing

and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiff elects to file an amended complaint, he must file the amended complaint by no later than 14 days after notifying the Court of his intent to do so. Within 21 days of such amendment, County Defendants may either (i) file an answer to the amended complaint, (ii) file a motion to dismiss the amended complaint, or (iii) notify the Court by letter that they are relying on the initially filed motion to dismiss.

Dated: September 29, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge